United Nations S/2018/242

Security Council

Distr.: General
22 March 2018

Original: English

Letter dated 20 March 2018 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council

I have the honour to attach herewith the comments of the Government of the Republic of Yemen on the report of the Panel of Experts on Yemen to the Security Council Committee established pursuant to resolution 2140 (2014) issued on 26 January 2018 (S/2018/68) (see annex).

I would greatly appreciate it if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Khaled H. **Alyemany**
Ambassador
Permanent Representative

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Annex to the letter dated 20 March 2018 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council

[Original: Arabic]

Observations of the Government of Yemen concerning the report dated 26 January 2018 of the Panel of Experts on Yemen of the Security Council Committee established pursuant to resolution 2140 (2014)

In response to the final report of the Panel of Experts on Yemen of the Security Council Committee established pursuant to Security Council resolution 2140 (2014) that was issued on 26 January 2018 (S/2018/68), the Government of the Republic of Yemen wishes to express its appreciation to the Panel of Experts, the Committee and Japan, which chaired the Committee in 2017. The Government of Yemen wishes to provide clarification regarding certain issues that were raised in the report, in order to establish and underscore the facts.

- The Panel provided incontrovertible evidence that Iran is involved in destabilizing the security, stability and sovereignty of the Republic of Yemen, and that it backs militias that are mounting an insurgency against the State by supplying them with sophisticated missiles and weapons, in violation of international law and the Charter of the United Nations. The Government of Yemen calls upon Security Council members to take action and compel the Iranian Government to comply with its obligations under international law and Security Council resolutions, particularly resolution 2216 (2015). The Panel stressed that Iran is in non-compliance with paragraph 14 of resolution 2216 (2015) because it failed to prevent the supply of Borkan-2H short-range ballistic missiles, field storage tanks for liquid bipropellant oxidizer for missiles and unmanned military aerial vehicles.

- The Government of Yemen appreciates the Panel's efforts to analyse the Houthis and address their militias' control of a significant portion of Yemeni territory and the scale of the violations, which are criminal acts under international law, that those militias have perpetrated and continue to perpetrate. Those militias pose a threat to navigation in the southern Red Sea and could endanger commercial navigation and maritime shipping for years to come. Moreover, Houthi militias control the Government's economic resources and sources of income, the black market for fuel and the smuggling of antiquities.

- The Government of Yemen welcomes the recommendation set out in subsection B (Impediments to the cessation of hostilities and to the resumption of the political process) of section II (Threats to the peace, security or stability of Yemen). In paragraph 27, the Panel underscores that Mohammed Ali al-Houthi meets the criteria for designation on the list of individuals or entities obstructing the peaceful political transition owing to his involvement in leading the events that resulted in the death of Ali Abdullah Saleh, and that those events constitute a threat to the peace and security of Yemen.

- In the opening paragraph of the summary, the Panel comes to a conclusion with serious implications under international law. The Panel states that Yemen, as a State, has all but ceased to exist and been replaced by warring statelets, and that no one side has either the political support or the military strength to reunite the country. The Government of Yemen rejects that assumption and believes that those who made it are helping to undermine the territorial integrity and

sovereignty of the Republic of Yemen. Had that assumption been correct, then the Government of Yemen and its institutions would not have been able to host members of the Panel and media delegations, who were able to travel throughout the liberated areas without restrictions, apart from the challenges posed by the war that the Houthi militias have been waging on the Yemeni people since 21 September 2014. This war has destroyed the country's capabilities, led to the spread of epidemics and diseases, and caused great financial hardship.

- The Government of Yemen is surprised by paragraph 171 of the report and its reference to the Government's refusal to conduct credible investigations into abuses or to act against the perpetrators. The Government of Yemen has previously indicated its readiness to examine any legal evidence or proof presented by the Panel of Experts, in order to verify that alleged abuses have been committed and take legal action if it is proven that they occurred. The Government reaffirms its total commitment to international humanitarian law and international human rights law. It is in the process of investigating and taking legal action against any party under its jurisdiction alleged to have committed abuses.

- In section II.A (Threats to the peace, security or stability of Yemen), the Panel states that the authority of the legitimate Government of Yemen has now eroded to the point that it is doubtful whether it will ever be able to reunite Yemen as a single country. The Panel bases this definitive assessment on several factors, including President Hadi's inability to govern from abroad, the formation of the Southern Transitional Council, the publicly stated goal of which is to establish an independent south Yemen, and the proliferation and independent operations of proxy military forces funded and armed by coalition members. Here, it is necessary to point out that:

(a) In all its resolutions and presidential statements concerning the crisis in Yemen, the Security Council has backed and continues to back the legitimate Government led by His Excellency President Abdrabuh Mansour Hadi Mansour against the Houthi militia-led insurgency being waged on the Yemeni State. Moreover, the mandate of the Security Council Committee established pursuant to resolution 2140 (2014) affirms that the sanctions regime applies to individuals or entities obstructing the peaceful political transition and is intended to support the legitimate Government, which was and remains a partner of the United Nations and the Security Council.

(b) The Panel's assertions are not consistent with the situation on the ground. President Hadi continues to perform his daily duties as supreme commander of the armed forces. The progress that the national army and the security forces have made in their effort to wrest control of the State from the Houthi militias is proof that there is a leadership in place which is capable of handling State affairs in cooperation with our coalition partners.

(c) During the period under review, the President has taken a number of important sovereign decisions, none of which met with any opposition. The leaders of all military, security and civilian institutions are loyal to His Excellency the President. The Government of Yemen, led by Prime Minister Ahmed Obeid Mubarek Bin-Dagher, is carrying out its functions from the interim capital of Aden.

(d) According to the Panel, the non-payment of salaries is one of the Government's weaknesses However, the Panel overlooked the significant efforts that the Government has made since the President of the Republic decided in September 2016 to transfer the Central Bank to Aden. The legitimate Government has strived to pay staff salaries in the liberated governorates and in certain districts of Houthi-controlled areas. It has also prepared a budget for 2018 that includes appropriations

to pay employee salaries in 12 governorates and certain districts in Houthi-controlled areas, despite a budget deficit estimated at 33 per cent.

(e) The governors and ministers who formed and joined the so-called Southern Transitional Council did not break away but were instead dismissed by President Hadi for disobeying State authority and committing acts of financial and administrative corruption of such seriousness that their cases were referred to the judiciary for prosecution. Some of them refused to obey the orders and directives issued by the political leadership. They decided to form or join the Transitional Council in an attempt to exploit the Southern secessionist cause. Since the peaceful political transition period began, the Government of Yemen has been striving to provide assurances regarding the Southern question and to uphold the rights of the people of the south, in accordance with the outcomes of the All-Inclusive National Dialogue that was held under the auspices of the United Nations, within a federal State that preserves the unity and sovereignty of Yemen. The international community is in favour of this noble objective, which has been endorsed in every Security Council resolution. There are two reasons why the Government takes issue with the practices of Southern Transitional Council's leadership. First, they refuse to repudiate armed violence as a means of imposing their political agenda. Second, the residents of the southern and eastern regions of Yemen do not accept that the Southern Transitional Council is the sole representative of their interests and aspirations. Indeed, many organizations claim to represent the south of Yemen. No one entity can claim to be the sole representative of the southern and eastern regions of Yemen, except within a legitimate, constitutional framework. Opposing the outcomes of the National Dialogue, which addressed the Southern question, would genuinely disrupt the course of peaceful political transformation in the country. According to the report, the display of the flag of the former southern State is indicative of a rebellion against the legitimate Government (paragraph 50). That conclusion reflects a failure to grasp the depth and dimensions of the Southern question, which dominated discussion at the National Dialogue conference, an event that went on for the better part of 2013.

- The Security Belt Forces in Aden, Lahij and Abyan, and the Hadrami Elite Forces and Shabwani Elite Forces, described in the report as military proxy forces, were formed on the basis of regional and tribal backgrounds. Those forces and their leaders are not under the command and control of or subordinate to the official Yemeni security and military establishment. Rather, those forces seek to hinder official institutions from operating, divide society and tear apart the social fabric. Regarding Major General Shallal Ali Shaye, an official who was accused of abuses in the report and who was appointed Director of General Security in Aden by an official government decision, his actions constitute disobedience of directives from the leadership of the Ministry of the Interior, which is responsible for the security agencies. The Government is examining appropriate options to hold him accountable and to punish him. The Government of Yemen notes that the extrajudicial detention sites listed in the report are not under the control of the Yemeni security and judicial authorities. The Government of Yemen concurs with the report's conclusion that these forces have become a serious obstacle to extending State authority. At a deeper level, they are driving the country into a state of fragmentation and disintegration and causing painful past conflicts to re-emerge, plunging the south into a fresh cycle of bloody skirmishes. The cohesiveness of the State cannot be maintained if those forces do not once again come under the direct command and control of official institutions and receive their salaries and equipment through legitimate government channels. In fact, they will increase divisions in Yemen and remain a source of tension and destabilization. Therefore, the Government of Yemen has sent an official communication to the coalition to restore legitimacy asking it to take action to subsume these forces into the official security and military

institutions and place them under the command and control of the Ministry of Defence and the Ministry of the Interior. Moreover, the materiel and weapons of those forces and the disbursement of their salaries must fall under the control of the legitimate Government, all detention sites and secret prisons outside the State's institutional framework should be handed over to the Yemeni Ministry of the Interior, prisoners must be handed over and a committee comprising members of the prosecution and the judiciary must be established to adjudicate all cases.

- In section VIII.F (Acts that violate international humanitarian law and human rights law) concerning the recruitment and use of children in armed conflict, the authors of the report have come to certain conclusions regarding the Houthi militias' recruitment of children. The Mission of Yemen addressed several letters to the Secretary-General concerning the magnitude of the crimes committed against children in Yemen. The Mission is working in coordination with the Office of the Special Representative of the Secretary-General for Children and Armed Conflict to develop joint measures to protect children and update the action plan that the Government signed in cooperation with the United Nations Children's Fund.

- The Government of Yemen welcomes the recommendations contained in section X, namely, recommendations (b), (c) and (d) addressed to the Security Council, and recommendations (a), (b), (c), (d) and (e) addressed to the Committee.